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County Jail Capital Expenditure Bond Act of 1981

Official Title and Summary Prepared by the Attorney General

FOR THE COUNTY JAIL CAPITAL EXPENDITURE BOND ACT OF 1981.

This act provides for the construction, reconstruction, remodeling, and replacement of county jails and the performance of deferred maintenance thereon pursuant to a bond issue of two hundred eighty million dollars (\$280,000,000).

AGAINST THE COUNTY JAIL CAPITAL EXPENDITURE BOND ACT OF 1981.

This act provides for the construction, reconstruction, remodeling, and replacement of county jails and the performance of deferred maintenance thereon pursuant to a bond issue of two hundred eighty million dollars (\$280,000,000).

FINAL VOTE CAST BY THE LEGISLATURE ON SB 910 (PROPOSITION 2)

Assembly—Ayes, 62
Noes, 8

Senate—Ayes, 27
Noes, 0

Analysis by the Legislative Analyst

Background:

California's 58 counties have jail facilities that house persons who are awaiting trial or serving time as a result of being convicted of committing a crime. According to the Board of Corrections, which is the state agency responsible for inspecting county jails, these facilities were designed to house a total of about 33,100 prisoners. This does not include the capacity of small facilities used primarily as short-term holding cells.

County jail populations have increased sharply in recent years. In May 1982, county jails had an average daily population of about 36,700 prisoners. This is about 10,000 more than the average population levels experienced during the late 1970s. At certain times (for example, Friday and Saturday nights), the county jail population statewide may rise to over 40,000 inmates.

If recent trends continue, the population of county jails will continue to grow. It is possible, however, that the rate of growth will increase in the near future as a result of recent changes in state law, such as those that increased penalties for driving while intoxicated and those that were provided for in Proposition 8, which was approved by the voters at the June 1982 primary election.

About 30 counties currently have average daily jail populations exceeding the designed capacities of their jail systems. Several other counties probably exceed the designed capacities of their jail systems during peak times. In all, approximately two-thirds of the counties have main jails (which are the primary housing facilities for persons awaiting trials) that are overcrowded on an average daily basis.

Because of the crowded conditions that exist in county jail facilities, the counties are making greater use of alternatives to incarceration in dealing with persons accused or convicted of crimes. For example, some counties are releasing more defendants without bail,

some are sending more public inebriates to hospital detoxification facilities instead of jail, some are releasing persons prior to the end of their sentences, and some are increasing the use of work furlough programs. In five counties the courts have imposed limits on the number of prisoners that may be confined in jail at any one time.

The Board of Corrections estimates that counties would need to spend about \$800 million, at today's prices, in order to provide additional capacity and to bring existing facilities up to fire, life, safety, and correctional standards. To the extent that counties could reduce construction needs by changing the distribution of prisoners between facilities, or by expanding their use of alternatives to jailing persons, the amount of funds needed to accommodate jail populations would be less.

During fiscal year 1981-82 the Board of Corrections granted about \$39 million in State General Fund money to 11 counties to finance (1) projects that will result in new or remodeled facilities for about 1,750 prisoners, (2) architectural plans for facilities capable of accommodating about 2,250 prisoners, and (3) improved security and safety for facilities designed to hold over 1,700 prisoners.

Proposal:

This measure, the County Jail Capital Expenditure Bond Act of 1981, would authorize the state to issue and sell \$280 million in state general obligation bonds. A general obligation bond is backed by the full faith and credit of the state, meaning that, in issuing the bonds, the state pledges to use its taxing power to assure that sufficient funds are available to pay off the bonds. The money raised by the bond sale would be used to finance the construction, reconstruction, remodeling, and replacement of county jails, as well as for the performance

of deferred maintenance in connection with such facilities. If this measure is approved by the voters, the 1982-83 state budget would allow the Board of Corrections to award \$100 million of the \$280 million authorized by the proposal to counties prior to June 30, 1983. The amount of funds that would be spent in future years would be determined by the Legislature as part of the annual state budget process.

The Board of Corrections would decide how the money raised by the bond sale would be distributed among the various activities and among the state's 58 counties. Counties may qualify for funding based on criteria developed by the board. The measure requires that at least 25 percent of expenditures from the bond funds be matched by the counties using their own funds.

The specific rules that would be adopted by the board for use in distributing the funds have not yet been determined. In allocating \$39 million from the General Fund during 1981-82 for jail purposes, however, the board gave the highest priority to those counties with the greatest degree of crowding within their jail systems.

The measure requires the board, in allocating available funds, to consider the following guidelines:

- The extent to which counties have exhausted all other means of raising funds;
- Whether counties could use the bond funds to attract other sources of financing;
- Whether jail construction is necessary to protect the life, safety, and health of prisoners and staff; and
- Whether counties are using reasonable alternatives to jailing persons.

The measure states that specified committees of the Legislature shall review the factors used by the board in allocating funds prior to the expenditure of any bond funds.

Fiscal Effect:

The general obligation bonds authorized by this measure would be paid off over a period of up to 20

years. Under current law the state can sell bonds at any interest rate up to 11 percent.

If the full \$280 million in general obligation bonds were sold at the maximum interest rate (11 percent) and paid off over a 20-year period, the interest cost to the state would be approximately \$323 million. Thus, the cost of paying off the principal and interest on these bonds could total \$603 million. This cost would be less if the bonds were sold at interest rates below 11 percent. The cost of paying off the bonds would be paid from the State General Fund using revenues received in future years.

The state and local governments could incur higher costs under other bond-finance programs if the bond sales authorized by the measure result in a higher overall interest rate on state and local bonds. These additional costs cannot be estimated.

The interest paid by the state on these bonds would be exempt from the state personal income tax. Therefore, to the extent that the bonds would be purchased by California taxpayers in lieu of taxable bonds, the state would experience a loss of income tax revenue. It is not possible, however, to estimate what this revenue loss would be.

Approval of this measure by the voters could increase by about \$280 million the revenue that is available to counties for jail construction, remodeling, or deferred maintenance. However, the counties receiving the funds would incur costs of at least \$70 million to provide a minimum of 25 percent in matching funds as required by the measure. The counties that build new facilities with the bond funds probably would incur additional operating expenses because current jail design standards tend to require higher staffing levels than older jails, and it generally is more expensive to administer and operate new jail facilities than it is to maintain crowded conditions within existing facilities. Additional jail space also could result in the lifting of court-imposed jail population limits, which would increase operating expenses. These costs might be incurred even if this measure is not approved, if counties or the state were to finance the construction or remodeling of jail facilities using other revenues.

Text of Proposed Law

This law proposed by Senate Bill 910 (Statutes of 1982, Ch. 34) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law expressly adds sections to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title 4.5 (commencing with Section 4400) is added to Part 3 of the Penal Code, to read:

TITLE 4.5. COUNTY JAIL CAPITAL EXPENDITURE BOND ACT OF 1981

CHAPTER 1. FINDINGS AND DECLARATIONS

4400. This title shall be known and may be cited as the County Jail Capital Expenditure Bond Act of 1981.

4401. It is found and declared that:

(a) Numerous county jails throughout California are dilapidated and overcrowded.

(b) Capital improvements are necessary to protect life and safety of the persons confined or employed in jail facilities and to upgrade the health and sanitary conditions of such facilities.

(c) County jails are threatened with closure or the imposition of court supervision if health and safety deficiencies are not corrected immediately.

(d) Due to fiscal constraints associated with the loss of local property tax revenues, counties are unable to finance the construction of adequate jail facilities.

(e) A 1980 survey authorized by the State Board of Corrections concluded that more than two hundred million dollars (\$200,000,000) would be necessary merely to bring county and city jails up to the standards in effect when they were built. Subsequent hearings by the Senate Judiciary Committee's Subcommittee on Corrections concluded that at least five hundred million dollars (\$500,000,000) would be necessary to bring such facilities up to present standards, without allowing for inflationary increases in construction costs in ensuing years.

(f) Imposition of limits on taxing powers of local agencies, imposed by Proposition 13 and other measures, has severely limited ability of local jurisdictions to raise funds for jail construction or renovation, though the need for such facilities is increasing.

CHAPTER 2. FISCAL PROVISIONS

4410. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued pursuant to this title, and the provisions

Continued on page 62

Argument in Favor of Proposition 2

Californians in June met their responsibilities head-on by approving a bond issue for building or enlarging overcrowded state prisons, such as Folsom, Tehachapi, etc. Proposition 2 would provide \$280 million for *county jail construction*, to complete the task. Both are needed to help meet the demand of the overwhelming majority of Californians, that persons who commit serious crimes be sent to jail or prison. Proposition 2 will NOT raise taxes.

Jails in 38 counties are overcrowded. Many are accused of violating fire, health, and safety standards. Twenty-eight counties face threats of court suits due to overcrowding; 12 currently are being sued: Alameda, Los Angeles, Madera, Mendocino, Orange, Riverside, San Diego, Sacramento, Santa Clara, Santa Cruz, Sonoma, and Yuba. Five are already under court order to reduce jail population by releasing prisoners.

Other similar court orders, placing jail control and release in the hands of judges, are possible.

Three factors have brought us to this crisis. *First*, the typical county jail is over 30 years old (a third are over 40). Most were built to hold fewer and less dangerous inmates—vagrants, drunks, petty thieves, persons charged with less serious crimes. As the crime rate and arrests have increased, and as state prisons have become overcrowded, county jail populations have come to include more serious and more violent offenders.

Many jails that were adequate to house minor offenders can no longer assure safety of prisoners, sheriff's employees, or the community. The chances of local jail riots, fatal fires, or escapes into the community increase as jail conditions worsen. And persons in jail on drunk

driving or minor charges, or awaiting trial but who have not been found guilty of committing any crime, must often be thrown in with dangerous offenders. Adequate women's facilities are often lacking.

Second, California's citizens have made it plain to the criminal justice system and the Legislature to get tough on criminals. Both have complied, and the resulting mandatory jail or prison terms for many more offenses, plus longer sentences, have all contributed to the lack of enough jail space to meet your demands.

And, *third*, rapidly rising construction costs and Proposition 13's limits on local taxes and local bond issues have made many counties unable to finance new jail construction entirely from local funds.

But a county won't just get money from the bond issue by holding out its hand. It will have to prove that it is making maximum use of its existing jail facilities, is using alternatives to jailing where possible (road camps, weekend sentences, community service sentences, etc.), and has tried its best to meet its own needs. A county must also put up 25 percent of the cost of the new facilities.

We urge you to vote "yes" on Proposition 2. It won't solve the crime problem by itself, but it can help keep offenders from roaming the streets who ought to be locked up.

TOM BRADLEY
Los Angeles Mayor
Former Lieutenant, LAPD
SHERMAN BLOCK
Sheriff, Los Angeles County
ROBERT PRESLEY
State Senator, 34th District
Author of Proposition 2

Rebuttal to Argument in Favor of Proposition 2

Proposition 2 *WILL RAISE TAXES* and may actually increase crime.

Its proponents say this boondoggle will not raise taxes. This is totally untrue. In fact, this \$280,000,000 bond issue will cost California taxpayers close to \$800,000,000 over the next 20 years. (The 25-percent matching fees paid by the counties bring the total cost closer to \$900,000,000.) Most of this money won't go toward jail construction, but to the banks and insurance companies that buy these bonds.

The fact that another billion-dollar bond issue passed in June to build new prisons is no reason for the voters to spend even more money. Prisons and jails are overcrowded because the "less dangerous inmates" the proponents speak of are mostly peaceful people in jail for victimless "crimes."

Over 50 percent of those arrested are victimized by these laws—which regulate gambling, voluntary sexual activities, and other aspects of personal life. Most of

these people serving time are sent to county jails.

Proposition 2 supporters point to the trend toward more repressive laws as another reason for new jails. But oppressive taxes like Proposition 2 eliminate jobs and put more poor people out of work. Some turn to crime. Many turn to peaceful, profitable activities which are currently illegal. As taxes go up, the state creates more criminals to put in their new jails. It's a never-ending cycle.

Such a program can only create more crime, higher taxes, and a more repressive system.

Vote NO on Proposition 2.

JOE FUHRIG
Libertarian Party Candidate for U.S. Senate

DAN DOUGHERTY
Libertarian Party Candidate for Governor

BART LEE
Libertarian Party Candidate for Attorney General

Argument Against Proposition 2

The \$280,000,000 special revenue bond earmarked for construction of new county jails is a misguided, expensive attempt to solve a very real problem: overcrowded, inhumane conditions in our jails.

But that problem is rooted in our current criminal justice system and the existence of oppressive laws which create a whole category of victimless "crimes."

Over 50 percent of those arrested in California are victimized by the existence of these laws—which regulate drug use, voluntary sexual activities, gambling, and other aspects of personal life. Most of those convicted and serving time are sent to our county jails. While violent criminals roam our streets, our extensive county jail system is filled to overflowing with people who have injured no one else.

Most prison administrators and experts agree that we could deal much more effectively with violent criminals if only we removed the peaceful citizens from the jail system.

A top official of California's correctional system recently pointed out that "in America, we lock up more people (per capita) than any other country except South Africa and the Soviet Union, yet we have the highest crime rates."

It should be clear that putting more money into our jail system to lock up more people will only compound the problem. What we need to do is to remove the victims of victimless crime laws from the jails and move

toward crime prevention and restitution to the victim as the top priorities.

As with any bond issue, the interest payments are not listed in the ballot proposal. Rather than \$280,000,000, the real cost of this scheme will be \$700,000,000 to \$800,000,000 paid to the banks and insurance companies that buy these bonds. And, with over 30 percent of the available money being loaned to the government, bond issues like this drive up interest rates and crowd out small private borrowers.

With the passage of Proposition 1 on the June ballot—a one-billion-dollar boondoggle to build more state prisons—the rationale for more jails is even less credible. Building more jails won't solve the problem, because our present system *is* the problem. More of the same is not the solution.

It's up to you. You can vote to saddle the taxpayers with 20 years of interest payments to lock up more people in our failing system. Or you can reject this measure and urge the politicians to lock up the real criminals, not peaceful citizens.

VOTE NO ON PROPOSITION 2.

JOE FUHRIG

Libertarian Party Candidate for U.S. Senate

DAN DOUGHERTY

Libertarian Party Candidate for Governor

BART LEE

Libertarian Party Candidate for Attorney General

Rebuttal to Argument Against Proposition 2

Among questionable points in opponents' arguments:

1. How much weight should you give to recommendations on crime issues by ANY group saying we can solve jail overcrowding by just releasing all those charged with what they term "victimless" crimes? They list these as drug use (including heroin? PCP?), voluntary sex acts (incest? prostitution?), and "other aspects of personal life" (drunk driving?).

2. Opponents say overcrowding results because persons accused of these crimes comprise over 50 percent of jail population. Actually the statewide percentage is about 10 percent.

3. Counties already use *many* methods to reduce nonviolent jail population: bail, O.R., drug diversion, weekend sentences, work-release programs. Many counties that lead in use of these alternatives, such as Los Angeles County, still face serious overcrowding. To qualify for bond funds a county must prove it has serious overcrowding AND makes maximum use of jail alternatives.

4. Opponents say violent criminals roam our streets.

Yet they oppose the prison and jail bond issues that would provide facilities to imprison such criminals.

5. Opponents would probably agree a growing county may need a bigger courthouse, more schools, fire stations. Yet they cannot grasp that a 40-year-old jail may no longer be safe or large enough.

6. The Legislative Analyst says the bond issue principal plus interest will total about \$550 million, NOT the \$700-\$800 million claimed by opponents. California would pay back an average of \$28 million yearly over 20 years. This won't raise taxes, but bonds help spread the costs among future citizens who also benefit.

SHERMAN BLOCK

Sheriff, Los Angeles County

JOHN GARAMENDI

*State Senator, 13th District
Majority Leader*

ROBERT PRESLEY

*State Senator, 34th District
Author of Proposition 2*

Proposition 2 Text: Continued from page 7

of that law are included in this title as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 30 years from the date of each respective series. The maturity of each respective series shall be calculated from the date of such series.

4411. As used in this title, and for the purpose of this title, the following words shall have the following meanings:

(a) "Committee" means the County Jail Capital Expenditure Finance Committee created by Section 4413.

(b) "Fund" means the County Jail Expenditure Fund.

4412. There is in the State Treasury the County Jail Capital Expenditure Fund, which fund is hereby created.

4413. For the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the County Jail Capital Expenditure Finance Committee is hereby created. The committee consists of the Governor or his designated representative, the Controller, the Treasurer, and the Director of Finance. The County Jail Capital Expenditure Committee shall be the "committee" as that term is used in the State General Obligation Bond Law, and the Treasurer shall serve as chairman of the committee. The Board of Corrections is hereby designated as "the board" for purposes of this title and for the purposes of the State General Obligation Bond Law.

4414. The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred eighty million dollars (\$280,000,000), in the manner provided in this title. Such debt or debts, liability or liabilities, shall be created for the purpose of providing the funds to be used for the object and work specified in Section 4415 and for administrative costs incurred in connection therewith.

4415. Moneys in the fund shall be available for expenditure in accordance with this title by the Board of Corrections. Prior to the disbursement of any money in the fund the board, the Subcommittee on Corrections of the Senate Judiciary Committee and the Subcommittee on County Jails of the Assembly Criminal Justice Committee shall reexamine the factors specified in subdivisions (a) and (b) to determine whether they are still suitable and applicable to the distribution of the proceeds of the bonds authorized by this title. Moneys in the fund shall be available for expenditure for the following purposes:

(a) For the construction, reconstruction, remodeling, and replacement of county jail facilities, and the performance of deferred maintenance activities on such facilities pursuant to rules and regulations adopted by the Board of Corrections, in accordance with the provisions of Section 6029.1. No expenditure shall be made unless county matching funds of 25 percent are provided.

(b) In performing the duties set forth in subdivision (a), the Board of Corrections shall consider all of the following:

(1) The extent to which the county requesting aid has exhausted all other available means of raising the requested funds for the capital improvements and the extent to which the funds from the County Jail Capital Expenditure Fund will be utilized to attract other sources of capital financing for county jail facilities.

(2) The extent to which the capital improvements are necessary to the life or safety of the persons confined or employed in the facility or the health and sanitary conditions of the facility.

(3) The extent to which the county has utilized reasonable alternatives to pre-conviction and post-conviction incarceration, including, but not limited to, programs to facilitate release upon one's own recognizance where appropriate to individual's pending trial, sentencing alternatives to custody, and civil com-

mitment or diversion programs consistent with public safety for those with drug or alcohol-related problems or mental or developmental disabilities.

4416. (a) When sold, the bonds authorized by this title shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the interest and principal on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(c) All money deposited in the fund which has been derived from premium and accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4417. All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this title shall be available for transfer to the General Fund. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund.

4418. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this title, such an amount as will equal the following:

(a) That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this title, as principal and interest become due and payable.

(b) That sum as is necessary to carry out the provisions of Section 4419, which sum is appropriated without regard to fiscal years.

4419. For the purpose of carrying out the provisions of this title, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this title. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this title. Any money made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this title. Such withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would have otherwise been earned by such sums in the Pooled Money Investment Fund.

4420. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.

4421. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 4415 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

4422. All proposed appropriations for the projects specified in this title, shall be included in a section in the Budget Bill for the 1982-83 and each succeeding fiscal year, for consideration by the Legislature. All appropriations shall be subject to all limitations enacted in the Budget Act and to all fiscal procedures prescribed by law with respect to the expenditures of state funds, unless expressly exempted from such laws by a statute enacted by the Legislature. No funds derived from the bonds authorized by this title may be expended pursuant to an appropriation not contained in such section of the Budget Act.

Proposition 4 Text: Continued from page 15

purpose of providing the funds to be used for the object and work specified in Section 66957 and for administrative costs incurred in connection therewith, as provided in Section 66906.7.

66957. Moneys in the fund shall be available for expenditure in accordance with this title by a new or existing federal, state, regional, or local agency, or any combination thereof, to be designated by statute in accordance with the recommendations of the Tahoe Area Land Acquisition Commission. If no such agency is designated by July 1, 1984, moneys in the funds shall be available for expenditure in accordance with this title by the California Tahoe Conservancy Agency. Moneys in the fund shall be available for expenditure for the following purposes:

(a) For the acquisition of undeveloped lands threatened with development that will adversely affect the region's natural environment; will adversely affect the use, management, or protection of public lands in the vicinity of the development; or will have a combination of those effects. In particular, preference shall be given to the acquisition of undeveloped lands within stream environment zones and other undeveloped lands that, if developed, would be likely to erode or contribute to the further eutrophication or degradation of the waters of the region due to that or other causes. "Stream environment zone" means that area which surrounds a stream, including major streams, minor streams, and drainage ways; which owes its biological and physical characteristics to the presence of water; which may be inundated by a stream; or in which actions of man or nature may directly or indirectly affect the stream. A stream includes small lakes, ponds, and marshy areas through which the stream flows. Acquisitions made pursuant to this subdivision are not intended to replace, wholly or partially, the exercise of any authority conferred by law for the protection of the region's natural environment, including stream environment zones, or the

protection of public lands and resources. Accordingly, every public official or agency responsible for the administration or enforcement of any law having any of those purposes shall continue to administer or enforce that law with respect to lands acquired pursuant to this title, notwithstanding the making of any acquisition pursuant to this subdivision.

(b) For the acquisition of undeveloped lands whose primary use will be public lakeshore access, preservation of riparian or littoral wildlife habitat, or recreation, or a combination thereof.

(c) For the acquisition of undeveloped lands that do not satisfy the requirements of either subdivision (a) or (b) but which, if acquired, would facilitate one or both of the following:

(1) Consolidation of lands for their more effective management as a unit.

(2) Provision of public access to other public lands.

As used in this section, "undeveloped land" includes land that has been subdivided and improved with streets and utilities, but does not have structures other than those related to such streets and utilities.

Moneys in the fund shall not be used to acquire land which has been designated and authorized for purchase by the United States Forest Service.

66958. (a) When sold, the bonds authorized by this title shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the interest and principal on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.